

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: HAROLD L. ROBERTSON,
Debtor.

Case No. 16-53873
Chapter 13
Hon. Mark A. Randon

**OBJECTION BY THE UNITED STATES
TO CONFIRMATION OF DEBTOR'S PROPOSED PLAN**

The United States of America, by its attorneys, United States Attorney Barbara L. McQuade and Assistant United States Attorney Kevin R. Erskine, on behalf of the Internal Revenue Service (IRS), objects to the confirmation of the debtor's plan for the following reasons:

1. Debtor filed a voluntary petition for protection under Chapter 13 of the Bankruptcy Code and filed this plan on October 10, 2016.
2. The IRS timely filed a Proof of Claim on December 1, 2016. An Amended Proof of Claim was filed on December 21, 2016 [Claim 3-2]. The Amended Proof of Claim is in the amount of \$93,008.05 and consists of a secured claim of \$26,700.00, a priority claim of \$2,201.49, and a general unsecured claim of \$64,106.56.
3. The plan recognizes that the IRS has a secured claim but incorrectly

treats the IRS's secured claim as a Class 5.2 claim with payments of \$75.42 per month. The IRS's secured claim in the amount of \$26,700.00, however, is a Class 5.1 claim that must be paid in full through the plan, in equal monthly payments, with the IRS to retain its liens and to receive interest at the IRC rate in effect on the date of confirmation (currently 4%). *See* 11 U.S.C. § 1325(a)(5)(B). The IRS does not consent to the alternative treatment of the secured claim proposed by the debtor. *See* 11 U.S.C. § 1325(a)(5)(A).

4. The United States further objects to confirmation because the proposed Chapter 13 plan fails to provide for payment of the priority tax liabilities as stated on the IRS's proof of claim. The IRS's priority claim is \$2,201.49 and, to be confirmed, the debtor's plan must provide for the full payment, in deferred cash payments, of all claims entitled to priority under 11 U.S.C. § 1322(a)(2).

5. The proposed Chapter 13 plan lacks feasibility. Based on the debtor's own numbers, when taking into account the claims not properly scheduled, together with those that are properly scheduled, the plan is not feasible. The debtor has no apparent source of funding to make up the shortfall.

WHEREFORE, the United States respectfully requests that this Court deny confirmation of debtor's plan for the forgoing reasons and grant such further and additional relief as deemed just and appropriate.

Dated: December 22, 2016

BARBARA L. McQUADE
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2016, I electronically filed the
Objection By The United States To Confirmation Of Debtor's Proposed Plan using
the ECF System which will send notification of such filings to all counsel of record.

BARBARA L. MCQUADE
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